

**To:** Saldivar, Liz[Liz.Saldivar@mail.house.gov]; Montiel, Johanna[Johanna.Montiel@mail.house.gov]  
**Cc:** Maier, Brent[Maier.Brent@epa.gov]  
**From:** Kao, Jessica  
**Sent:** Fri 2/26/2016 7:11:28 PM  
**Subject:** RE: Follow Up Clarifications on Exide - Status

Dear Liz,

I left you a voicemail message yesterday. I want to reach out to you in case you have follow-up questions or would like to have additional information.

**Jessica Kao**

Chief of Staff, Office of the Regional Administrator

USEPA, Pacific Southwest Region

75 Hawthorne Street

San Francisco, CA 94105

415-972-3922 (direct)

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**From:** Maier, Brent  
**Sent:** Thursday, February 25, 2016 2:07 PM  
**To:** Saldivar, Liz <Liz.Saldivar@mail.house.gov>; Montiel, Johanna <Johanna.Montiel@mail.house.gov>  
**Cc:** De La O, Irvin <Irvin.DeLaO@mail.house.gov>; Jimenez, Gemma <Gemma.Jimenez@mail.house.gov>; Keener, Bill <Keener.Bill@epa.gov>; Kao, Jessica <Kao.Jessica@epa.gov>; Huettelman, Tom <Huettelman.Tom@epa.gov>; Reyes, Deldi <Reyes.Deldi@epa.gov>; Meer, Daniel <Meer.Daniel@epa.gov>; Sugerman, Rebecca <Sugerman.Rebecca@epa.gov>; Zito, Kelly <ZITO.KELLY@EPA.GOV>; Mogharabi, Nahal <MOGHARABI.NAHAL@EPA.GOV>  
**Subject:** RE: Follow Up Clarifications on Exide - Status

Liz/Johanna –

First, our apologies for the delayed response as we sought confirmation on one of the questions raised.

As I shared with your office, on February 17, Governor Brown announced his \$176.6 million funding plan to expedite and expand the California Department of Toxic Substance Control's (DTSC) on-going testing and cleanup of residences, schools, daycare centers and parks surrounding the former Exide facility in Vernon. EPA applauds this significant commitment from the State, which has been leading the cleanup efforts, and will continue to work closely with the State and participate in stakeholder meetings.

With respect to the scope of the March 2015 Non-Prosecution Agreement (NPA), it is a criminal settlement between the U.S. Attorneys' Office and Exide stemming from EPA's criminal investigation. It does not bind other federal, state, or local agencies from acting under their own authorities. In addition to requiring Exide to permanently close its Vernon facility and admit to multiple knowing violations of federal hazardous waste storage, disposal, and transportation laws, the NPA requires Exide to comply with all Closure and Post-closure corrective, cleanup and financial assurance requirements from DTSC's 2002, 2013 and 2014 orders and Closure/Post-Closure Plan. If Exide breaches the NPA, including the requirements to comply with the DTSC orders, its admission of felony criminal conduct can be used against it in subsequent criminal prosecution. A copy of the NPA is available here: <http://documents.latimes.com/exide-non-prosecution-agreement>.

Prior to the permanent closure of Exide's Vernon facility under the NPA, the DTSC held discussions with EPA on the process for denying the facility a RCRA permit, as there are no established criteria under federal or state law for such an action.

As mentioned during the call, many considerations go into the cleanup of a lead-contaminated site. In general, EPA cleans up to 400 ppm for residences and up to 1,200 ppm for industrial properties. California, using its more stringent standard for residences, cleans up to 80 ppm.

Please feel free to contact me if you need further information.

Brent Maier

Congressional Liaison

U.S. Environmental Protection Agency, Region IX

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Ph: 415.947.4256

**From:** Saldivar, Liz [<mailto:Liz.Saldivar@mail.house.gov>]

**Sent:** Thursday, February 25, 2016 12:11 PM

**To:** Montiel, Johanna <[Johanna.Montiel@mail.house.gov](mailto:Johanna.Montiel@mail.house.gov)>; Maier, Brent <[Maier.Brent@epa.gov](mailto:Maier.Brent@epa.gov)>

**Cc:** De La O, Irvin <[Irvin.DeLaO@mail.house.gov](mailto:Irvin.DeLaO@mail.house.gov)>; Jimenez, Gemma <[Gemma.Jimenez@mail.house.gov](mailto:Gemma.Jimenez@mail.house.gov)>; Keener, Bill <[Keener.Bill@epa.gov](mailto:Keener.Bill@epa.gov)>

**Subject:** RE: Follow Up Clarifications on Exide - Status

Brent,

I appreciate you working on this but it's now been two weeks since we had our phone call. The Congressman requested an update and wanted for us to inquire with you when you will have a response.

You were all very clear on the phone as to what your role is and what your limitations are that is why I am unclear why this is taking so long. Perhaps there is something that I am missing that you could shed light on.

Thank you for your attention to this matter.

**From:** Montiel, Johanna  
**Sent:** Thursday, February 25, 2016 11:57 AM  
**To:** 'Maier, Brent'  
**Cc:** Saldivar, Liz; De La O, Irvin; Jimenez, Gemma; Keener, Bill  
**Subject:** RE: Follow Up Clarifications on Exide - Status

Hi Brent,

Just following up on this. Please let me know when we should hear back from you.

Best,

Johanna

**From:** Maier, Brent [<mailto:Maier.Brent@epa.gov>]  
**Sent:** Thursday, February 18, 2016 1:01 PM  
**To:** Montiel, Johanna  
**Cc:** Saldivar, Liz; De La O, Irvin; Jimenez, Gemma; Keener, Bill  
**Subject:** RE: Follow Up Clarifications on Exide - Status

Johanna –

A quick note to let you know that we are going to need some additional time to provide you with any needed clarifications on what you shared with us. I received a message today from our Chief of Staff who participated in our last call with you, and who is out of the office on travel this week with our Regional Administrator indicating that she would like some time to review our draft clarifications and asked that I let you know that we now expect to send our response to you sometime early next week. I apologize in advance for the delay in getting this to you, but will follow up as soon as I can next week. Thanks.

Regards,

Brent Maier

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**From:** Maier, Brent

**Sent:** Friday, February 12, 2016 4:06 PM

**To:** 'Montiel, Johanna' <[Johanna.Montiel@mail.house.gov](mailto:Johanna.Montiel@mail.house.gov)>

**Cc:** 'Saldivar, Liz' <[Liz.Saldivar@mail.house.gov](mailto:Liz.Saldivar@mail.house.gov)>; 'De La O, Irvin'

<[Irvin.DeLaO@mail.house.gov](mailto:Irvin.DeLaO@mail.house.gov)>; 'Jimenez, Gemma' <[Gemma.Jimenez@mail.house.gov](mailto:Gemma.Jimenez@mail.house.gov)>

**Subject:** RE: 2/11/16 Call w/ EPA

Johanna –

Just a quick note update you on the status of our review of the summary you provided and your request that we provide any needed clarifications. As I mentioned earlier, I have shared with my colleagues and with this being Friday, some folks are out of the office, so we will need a some additional time to track down some needed technical information, but do hope to follow up with you on Tuesday or Wednesday of next week following the federal holiday on Monday. Thanks for your patience while we review what you provided.

Regards,

Brent Maier

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**From:** Maier, Brent

**Sent:** Friday, February 12, 2016 9:12 AM

**To:** 'Montiel, Johanna' <[Johanna.Montiel@mail.house.gov](mailto:Johanna.Montiel@mail.house.gov)>

**Cc:** Saldivar, Liz <[Liz.Saldivar@mail.house.gov](mailto:Liz.Saldivar@mail.house.gov)>; De La O, Irvin

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**Subject:** RE: 2/11/16 Call w/ EPA

Johanna –

Thanks for your message and I have shared with my colleagues who joined me on yesterday's call for their review and to see if they have anything from your notes that they wish to clarify. I will follow up with you once I hear back from my colleagues. Thanks.

Brent Maier

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**From:** Montiel, Johanna [<mailto:Johanna.Montiel@mail.house.gov>]  
**Sent:** Thursday, February 11, 2016 5:11 PM  
**To:** Maier, Brent <[Maier.Brent@epa.gov](mailto:Maier.Brent@epa.gov)>  
**Cc:** Saldivar, Liz <[Liz.Saldivar@mail.house.gov](mailto:Liz.Saldivar@mail.house.gov)>; De La O, Irvin <[Irvin.DeLaO@mail.house.gov](mailto:Irvin.DeLaO@mail.house.gov)>; Jimenez, Gemma <[Gemma.Jimenez@mail.house.gov](mailto:Gemma.Jimenez@mail.house.gov)>  
**Subject:** 2/11/16 Call w/ EPA

Hi Brent,

Again, thank you for putting together today's call and taking the time to clarify a lot of the questions we had. I am sending this e-mail to summarize what was discussed, and please let me know if I misunderstood anything.

- EPA has been playing an advisory role to DTSC when they request technical assistance in understanding best practices.
- However, there is a non-prosecution agreement between DOJ, U.S. EPA, DTSC, and Exide, where U.S. EPA has no regulatory role and that role has been delegated to the state of California.
- EPA's policy/standards that would trigger a clean-up in a residential yard is if the testing is above 400 ppm and in industrial areas would be if it is above 1,200 ppm.
- But, the state of California's standard to trigger a clean-up at a residential yard is at above 80 ppm.
- Right now there is no specific pace at which Region IX EPA is recommending DTSC can take.
- On steps EPA discussed to deny a RCRA permit to DTSC (state of CA?) were unclear because EPA felt the authority to do that were unclear under federal and state laws.
- Apart from the soil risk-management standard at 400 ppm, there is no standard in soil that EPA has that would trigger an emergency evacuation
- However, there have been instances where EPA has had people relocate based on a combination of many things such as the level of lead contamination in the home and if there is clear evidence that an individual has lead poisoning.

A question I have, and maybe someone who better understands the agreement might be able to answer. In a case like this, if the state fails to effectively enforce the agreement, would there be any EPA involvement? Would they have a role?

I hope to hear from you soon.

Best,

Johanna

**Johanna Montiel** | Legislative Correspondent

Rep. Xavier Becerra (CA-34), Chairman of the House Democratic Caucus

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*Sign up for email updates from Congressman Becerra.*

